

AMENDED IN SENATE MAY 5, 2011
AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 626

Introduced by Senator Calderon

February 18, 2011

An act to add Division 8.9 (commencing with Section 22992) to the Business and Professions Code, and to add Section 7059 to the Revenue and Taxation Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

SB 626, as amended, Calderon. State Board of Equalization: cannabis and cannabis products: study.

Existing law provides for the licensure by the State Board of Equalization of manufacturers, distributors, wholesalers, importers, and retailers of cigarettes or tobacco products that are engaged in business in California, and prohibits retailers, manufacturers, distributors, and wholesalers from distributing or selling those cigarette and tobacco products unless they are licensed. Existing law also imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would require the State Board of Equalization to *establish a task force* to conduct a study, and submit the results of that study to the Legislature by a specified date, to determine, among other things, the most efficient means to obtain compliance under the Sales and Use Tax Law by sellers of cannabis and cannabis products sellers engaged in business in this state, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 8.9 (commencing with Section 22992) is added to the Business and Professions Code, to read:

DIVISION 8.9. CANNABIS CERTIFICATION AND
REGULATION ACT OF 2011

22992. This division shall be known, and may be cited, as the Cannabis Certification and Regulation Act of 2011.

22992.2. The Legislature finds and declares all of the following:

(a) The current controversies surrounding California's medical marijuana dispensaries authorized to sell medical marijuana under the Compassionate Use Act, enacted by the voters in 1996, have created problems for the patients, dispensaries, law enforcement, and local governments. Many issues about the legal sale and distribution of medical marijuana remain unaddressed.

~~(b) Although many dispensaries operate within the law, there~~
(b) *There* is clear evidence that some *dispensaries* are intentionally evading taxes and may be laundering illegally acquired money and illegally distributing marijuana for other than medical purposes.

(c) The State Board of Equalization, under its sales tax authority, has formally registered nearly 300 medical marijuana dispensaries and issued seller's permits. It has also identified over 500 unregistered dispensaries.

~~(d) Local governments, in allocating the number and location of dispensaries,~~ are rightly unwilling to authorize distribution centers when current state laws are not clear on how to prevent unlawful activities.

(e) Law enforcement authorities have legitimate concerns about misuse of these dispensaries as sources of illegal distribution and consumption.

~~(f) Dispensaries with the best intentions do not have a clearly defined legal framework for acquiring and distributing medical marijuana, and are put unnecessarily at risk in the act of acquiring an illegal product for legal resale.~~

(f) *A clearly defined legal framework is required to protect the integrity and distribution of cannabis for medical use.*

1 (g) In 2003 the Legislature enacted the California Cigarette and
2 Tobacco Products Licensing Act of 2003 (Division 8.6
3 (commencing with Section 22970) of the Business and Professions
4 Code) to provide for the licensure by the State Board of
5 Equalization of manufacturers, distributors, and retailers of
6 cigarette and other tobacco products in California. For the first
7 time in California, the distribution and sale of cigarette and tobacco
8 products were prohibited pursuant to Division 8.6 (commencing
9 with Section 22970) of the Business and Professions Code unless
10 those involved in every aspect of the trade were licensed.

11 (h) That act authorized the state, through the State Board of
12 Equalization, to suspend or revoke the license of any licensee in
13 violation of the strict regulations governing the legal distribution
14 of tobacco products. The act established criminal penalties for
15 selling counterfeit cigarette and tobacco products, and imposed
16 fines or imprisonment for possessing, selling, or buying fraudulent
17 cigarette tax stamps.

18 (i) The primary purpose of the act was to prevent the unlawful
19 distribution of cigarettes and the loss of state tax revenue, which
20 had been declining by hundreds of millions of dollars due, in part,
21 to unlawful distributions and untaxed sales by well-organized
22 criminals.

23 (j) The act has been a success. According to a June 2006 report
24 by the State Auditor, cigarette tax compliance has improved, and
25 there was a positive effect on tax revenues from cigarettes and
26 tobacco products.

27 (k) It is the intention of the Legislature in enacting similar
28 legislation to license and control the distribution of medical
29 marijuana to do all of the following:

30 (1) Enable state and local governments to control sales and
31 distribution of marijuana in the same way the tobacco licensing
32 act has stemmed the flow of illegal tobacco products into the
33 market place.

34 (2) Increase revenue for the state and local governments.

35 (3) Provide assurances to the dispensaries that are now paying
36 sales tax that the state has an effective mechanism to collect tax
37 from their illegal competitors and shut them down if necessary.

38 (4) Enable the state to control the current legal distribution of
39 medical marijuana from the cultivator to the consumer and help

1 law enforcement authorities stop illegal sales in medical marijuana
2 dispensaries and elsewhere to minors and other individuals.

3 (5) Allow the state to prescribe secure packaging requirements
4 to carry out the intent of the division.

5 SEC. 2. Section 7059 is added to the Revenue and Taxation
6 Code, to read:

7 7059. (a) The board shall *establish a task force* to conduct a
8 study to determine the most efficient means to obtain compliance
9 under this part by sellers of cannabis and cannabis products that
10 are engaged in business in this state in order to enhance collection
11 of applicable state and local sales and use tax on retail sales of
12 cannabis or cannabis products *and in order to ensure the proper*
13 *regulation of the cultivation, transportation, and distribution of*
14 *cannabis and cannabis products*. In conducting the study, the ~~board~~
15 *task force* shall consider all of the following:

16 (1) The current strategies of the board that encourage compliance
17 with the Sales and Use Tax Law from cannabis or cannabis
18 products sellers engaged in business in this state.

19 (2) The advantages or disadvantages of implementing a stamp
20 system for cannabis or cannabis products similar to that used for
21 cigarettes under the California Cigarette and Tobacco Products
22 Tax Law (Part 13 (commencing with Section 30001)).

23 (3) Strategies that would assist the board in identifying sellers
24 of cannabis or cannabis products, including the use of ~~federal~~,
25 state, or local law enforcement agencies.

26 (4) Strategies that would provide incentives for cannabis or
27 cannabis product sellers to register and pay the tax imposed by
28 this part without the possibility of self-incrimination.

29 (5) The potential administrative costs to the board for
30 implementing and administering any system that the board
31 identifies that would enhance collection of applicable state and
32 local sales and use tax on the sale and use of cannabis or cannabis
33 products in this state.

34 (6) *Strategies that would assure quality control of cannabis and*
35 *cannabis products, including laboratory testing for potency,*
36 *pathogens, and pesticides.*

37 (7) *The advantages or disadvantages of establishing a state*
38 *level program for the licensing, regulation, and enforcement of*
39 *best practices for the cultivation, processing, and distribution of*
40 *cannabis and cannabis products for medical use.*

1 ***(b) The task force shall be composed of nine persons, as follows:***

2 ***(1) A representative from the California Police Chiefs***
3 ***Association.***

4 ***(2) A representative from the California Narcotic Officers’***
5 ***Association.***

6 ***(3) A representative from the California District Attorneys***
7 ***Association.***

8 ***(4) A representative from the California Medical Association.***

9 ***(5) A representative appointed by the Attorney General.***

10 ***(6) A representative from the California Cannabis Association.***

11 ***(7) A representative from Americans for Safe Access.***

12 ***(8) Two representatives appointed by the Chair of the board.***

13 ~~***(b)***~~

14 ***(c) The board shall submit a report to the Legislature with the***
15 ***results of the study no later than ~~January 1, 2013~~ six months after***
16 ***the effective date of the act adding this section.*** In the event the
17 report includes a strategy that is feasible and would benefit the
18 state and local sales and use tax revenue stream and minimize
19 noncompliance by cannabis or cannabis products sellers engaged
20 in business in this state, the report shall also recommend a strategy
21 for implementation.

22 ~~***(e)***~~

23 ***(d) (1) The requirement for submitting a report imposed under***
24 ***subdivision ~~(b)~~ (c) is inoperative on January 1, 2017, pursuant to***
25 ***Section 10231.5 of the Government Code.***

26 ***(2) A report to be submitted pursuant to subdivision ~~(b)~~ (c) shall***
27 ***be submitted in compliance with Section 9795 of the Government***
28 ***Code.***